

REMARKS

The office action of March 9, 2007, has been carefully considered.

It is noted that claim 7 is objected to on formal grounds.

Claim 13 is rejected under 35 U.S.C. 112, first paragraph.

Claims 7-14 are rejected under 35 U.S.C. 112, second paragraph.

Claims 7, 8 and 10-14 are rejected under 35 U.S.C. 102(b) over the patent to Runge et al.

Claims 7, 8 and 10-13 are rejected under 35 U.S.C. 102(a) over the patent to Koehler et al.

Claim 9 is rejected under 35 U.S.C. 103(a) over Koehler et al. in view of Bunick.

In view of the Examiner's objections to and rejections of the claims, applicant has amended claims 7, 9, 13 and 14.

Applicant has amended claim 7 to be in independent form. Thus, it is respectfully submitted that the objection to claims 7-14 is overcome and should be withdrawn.

With the amendment to claim 13 it is respectfully submitted that the rejection of this claim under 35 U.S.C. 112, first paragraph is overcome and should be withdrawn.

It is respectfully submitted that the claims now on file particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended the claims to address the instances of indefiniteness pointed out by the Examiner. The surface active substance is produced or formed by the aqueous solution at a specific temperature range. Applicant does not see the confusion of "carmine product". If the Examiner has any suggestions applicant would gladly consider them.

In view of these considerations it is respectfully submitted that the rejection of claims 7-14 under 35 U.S.C. 112, second paragraph is overcome and should be withdrawn.

It is respectfully submitted that the claims presently on

file differ essentially and in an unobvious, highly advantageous manner from the constructions disclosed in the references.

Turning now to the references and particularly to the patent to Runge et al., it can be seen that this patent discloses the use of solubilized carotenoid preparations for coloring food preparations. Runge et al. do not disclose mixing a color dispersion at a temperature of 20°C to 70°C, as in the presently claimed invention. In contrast, at column 1, line 58 and column 2, line 16, Runge et al. explicitly disclose that the color dispersion is mixed at a temperature of 120°C to 200°C. Furthermore, at column 2, lines 44-46, Runge et al. teach the carotenoid mixed in an oily dispersion, which is different from the presently claimed invention which does not use oil. Additionally, Runge et al. do not disclose a surface active substance present in an amount of less than 20 weight percent, which provides many benefits to the mixture. Thus, Runge et al. do not disclose the presently claimed invention.

In view of these considerations it is respectfully submitted that the rejection of claims 7, 8 and 10-14 under 35 U.S.C. 102(b) over the above-discussed reference is overcome and should be withdrawn.

The patent to Koehler et al. discloses a coloring substance composition. As with Runge et al., Koehler et al. do not disclose mixing a color dispersion at a temperature of 20°C to 70°C. Koehler et al. do not disclose any temperature range for producing the color dispersion. The composition of the invention, without organic solvent, oil or fat permits the mixture to be worked at the low temperature range recited in the claims. There is also no disclosure of the weight percentage of surface active substance as in the presently claimed invention.

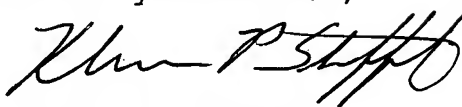
In view of these considerations it is respectfully submitted that the rejection of claims 7, 8 and 10-13 under 35 U.S.C. 102(a) over the above-discussed reference is overcome and should be withdrawn.

Reconsideration and allowance of the present application are respectfully requested.

Any additional fees or charges required at this time in connection with this application may be charged to Patent and Trademark Office Deposit Account No. 11-1835.

Respectfully submitted,

By



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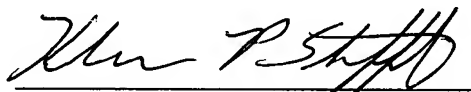
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Dated: August 9, 2007

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450 Alexandria, VA 22313-1450, on August 9, 2007.

By:



Klaus P. Stoffel

Date: August 9, 2007